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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,140	10/12/2001	Kenneth G. Blemel		2402

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EXAMINER

PAN, DANIEL H

ART UNIT

PAPER NUMBER

2183

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/977,140

Applicant(s)

BLEMEL, KENNETH G.

Examiner

Daniel Pan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6,9,18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) 1,7,8 and 10-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6,9,18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Claims 2-6, 9,18 remain for examination. Claim 19 is newly added. Claims 1,7,8,10-17 have been canceled.
2. Upon further review and recent "101" guideline from the Tech Center, the "101" rejection has been applied. Since the guideline was not available at the time of examination, this is a non-final rejection to allow applicant a chance to respond.
3. This action supersedes the previous action.
4. As to claim 6, none of the claimed features are necessarily implemented in hardware. Claim 6 is not limited to tangible embodiments. In view of Applicant's disclosure, specification page 7, lines 3-12, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., [FPGA]) and intangible embodiments (e.g., [purely optical] [electricity] [speed of light]). As such, the claim is not limited to statutory subject matter and is therefore non-statutory. Purely optical, electricity, speed of light are not concrete and tangible. Therefore, it is non-statutory under 35 U.S.C. 101.
5. Claims 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings, III (6,449,273) in view of Hopkins et al. (5,442,562).
6. As to amended claim 6, claim 6 deleted the dependency from claim 1. No other change has been made. Because claim 6 no longer includes the limitations of the canceled claim 1, claim 6 is now being rejected over Jennings, III in view of Hopkins

et al. to address the weighing parameters and diagnosing which were not explicitly shown by Jennings, III. Remarks by applicant regarding the Jennings, III will be addressed in this action.

7. As to claim 6, Jennings also included at least :

- a) sensors (see analog to digital conversion in col.14, lines 42-50),
- b) a local data processor for receiving data from the sensors (see processor (436) coupled to communication channels in col.4, lines 46-55), and
- c) a centralized processor (320) (400) coupled to plurality of local devices see communication channels (13) for generating set of control signals.

8. Jennings, III did not specifically show the generation of weighing parameters for diagnosing. However, Hopkins disclosed a diagnostic system for generating weighing parameters (see col.7, lines 29-68, col.8, lines 1-11). It would have been obvious to one of ordinary skill in the art to use Hopkins in Jennings, III for including the weighing parameters as claimed because the use of Hopkins could provide Jennings, III the control capability to test a predefined set of system conditions, thereby, increasing the monitoring ability of Jennings, III for control process, and because Jennings, III did disclosed a laser signals conversions in col.4, lines 49-56, see fig.3 320, see also processor 400 can operate as processor 320 in col.3, lines 41-68, see the detailed control operations in col.5, lines 1-31), which was a suggestion of the need for including

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the weighing parameters (e.g. the conversions weighing factors) into the system, in order to provide the enhanced diagnostic capability, and for doing so, provided a motivation. Jennings, III is used because it showed clearly the central processor coupled with local processors (see fig.320, 400). Hopkins is used to supplement the teaching of weighting parameters.

9. As to claim 2, Jennings, 111 also included a common access point (see fig.3 (300)).

10. AS to claim 3, Jennings, III also included software and hardware and the control apparatus also instantiated processors (see the cache controller 428 of processors 410, see also microcontroller in col.4, lines 20-41).

11. AS to claim 4, see the micro controller, programmable logic devices, finite state machine in col.4, lines 20-41, see also 01.5, lines 1-12).

12. As to claim 5, Jennings also included at least (see col.2, lines 12 asynchronous, ATM, col.4, lines 14-19, interrupt and clock timer for synchronous), see also the communication control and status to the separate communication mechanisms for the serial bus and concurrent data transfer the asynchronous and synchronous in serial and parallel fashion (col.1, lines 11-26, col.6, lines 5-26).

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13. As to claim 9, Jennings also included electro-optic (see the laser in col.4, lines 46-57). As to the electro mechanic and electro-hydraulic, no specific format or the type of the electromechanically and hydraulic systems has been reflected into the claim, therefore, it is assumed any system element which was capable of using the relevant functionalities, such as Jennings, 111 taught a laser converter (see col.4, lines 46-57). laser converter must connected from a laser gun , or the like, therefore, it must have involved with some mechanical and hydraulic mechanisms, although Jennings, 111 did not explicitly show the mechanical and hydraulic systems, one of ordinary skill in the art should be able to recognize the need of using a mechanical and hydraulic mechanism in general sense to support the laser beams or the laser signals.

14. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings , III (6,449,273) in view of Hopkins et al. (5,442,562) as applied to claim 6 above, and further in view of Wynn et al. (6,275,499).

15. As to claim 18, as to the wireless, neither Jennings, III nor Hopkins specifically teach wireless. However, Wynn taught wireless (see col.4, lines 40-47). It would have been obvious to one of ordinary skill in the art to use Wynn in Jennings because the use of Wynn could increase the system connectivity of Jennings, III to accept data from remote locations , and because Jennings , III taught an external interface (see channel interface in col.4, lines 57-68), which was a suggestion of the need for interconnecting any remote devices, such as a wireless, to enhance the system connection capability, therefore, provided a motivation.

16. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings, III (6,449,273) in view of Hopkins et al. (5,442,562) as applied to claim 6 above, and further in view of Pelevich (5,652,884).

17. As to newly added claim 19, Jennings, III also included at least:

a) first control for specific functionality of system support (see the support circuit 436),

2) second process control covered all applications related to real time networks (see the real time actions in col.4, lines 14-19),

3) third process included human interface applications (see the I/O analog conversion in col.4, lines 46-55),

4) a fourth process for network access point connecting to external extension units (see LAN and WAN for the background in col.1, lines 11-26);

Jennings did not specifically show the instantiation on the fly as claimed. However, Pelevich disclosed an instantiation on the fly (see the dynamic instantiation on the fly in col.24, lines 30-40). It would have been obvious to one of ordinary skill in the art to use Pelevich in Jennings, III for including instantiation on the fly because the use of Pelevich could provide Jennings, III the interface capability to adapt to additional system expansion or configuration, such as the conditional control elements, and therefore, increasing the system structure reconfigurability in Jennings, and it could be achieved by predefining the dynamic instantiation on the fly of Pelevich into the configuration file of Jennings, III so that the instantiation on the fly of Pelevich could be

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recognized by Jennings, III in order to achieve the enhanced system functionality, and for the above reason, provided a motivation.

18. Applicant's arguments filed on 05/05/05 with respect to claims 2-6,9,18,19 have been considered but are moot in view of the new ground(s) of rejection.

19. Although limitations of claim 6 have been changed, it is believed that the following response to applicant's argument regarding Jennings, III will help to clarify the issue :

20. Applicant stated that Jennings did not teach a centralized data processor coupled to a plurality of local devices that provide the means for monitoring, diagnosing, prognosing and controlling. No specific format or type of monitoring, diagnosing, prognosing and controlling has been reflected into the claim (see claim 6), therefore, it is read as any monitoring, diagnosing, prognosing and controlling in general sense. Jennings, III must have some monitoring, diagnosing, prognosing and controlling functions, otherwise , it would not have been functioned properly.

21. Jennings , III (6,449,273) and Wynn et al. (6,275,499) were cited on the record, therefore, copies are not provided herein in this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Pan whose telephone number is 703 305 9696, or the new number 571 272 4172. The examiner can normally be reached on M-F from 8:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chan, can be reached on 703 305 9712, or the new number 571 272 4162.

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The fax phone number for the organization where this application or proceeding is assigned is 703 306 5404.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

21 Century Strategic Plan

DANIEL H. DAN
PRIMARY EXAMINER
GROUP

A handwritten signature in black ink, appearing to be 'M', is written over the stamp.